



DEPARTMENT OF THE ARMY
HEADQUARTERS, JOINT READINESS TRAINING CENTER AND FORT POLK
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REPLY TO
ATTENTION OF:

AFZX-MWR-AC

AUG 02 2004

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Command Policy Memorandum DMWR-02 - Physical Separation of Parties
Involved in Domestic Violence

1. Purpose: This policy memorandum implements a mandatory 72-hour minimum period of physical separation for Soldiers and/or their civilian spouses involved in domestic disputes on and off the Fort Polk installation.
2. Applicability: The provisions of this policy apply to all military personnel assigned to Fort Polk and their spouses, whether living on or off the Fort Polk installation.
3. General: Violence against a spouse is a crime and is contrary to the values and standards of the United States Army. Domestic violence is a community issue that affects family stability, Soldier morale, and mission accomplishment. Department of Defense (DoD) Directive 1030.1, Victim and Witness Assistance, includes a bill of rights, which closely resembles the Federal Crime Victims' Bill of Rights. Under this bill of rights, DoD officials are responsible for ensuring that victims of military crimes are afforded several rights, among which are the right to be treated with fairness and respect for their dignity, and the right to be reasonably protected from the alleged offender. The provisions set forth within this policy will ensure that these rights are observed and that the safety of military victims of spouse abuse is maximized.
4. Active Duty Offenders: When an active duty Soldier is the offender in a domestic disturbance involving physical assault, commanders, upon notification by the provost marshal office (PMO), the installation reporting point of contact (RPOC) for child and spouse abuse reports, a social work service (SWS) case manager, or a civilian law enforcement agency will require the Soldier be placed in the barracks or with a command-assigned individual at least two grades higher (see subsection "a" below) than the Soldier, for a minimum separation period of 72 hours.
 - a. If the commander places the offender with a command-assigned individual, that individual must be an officer or a noncommissioned officer (NCO) no less than two grades higher than the offender, does not reside within close proximity of the victim, and has the authority to issue verbal and/or written orders of restraint as necessary. To avoid conflicts of interest, the assigned individual shall not be a friend of the offender.

AFZX-MWR-AC

SUBJECT: Command Policy Memorandum DMWR-02 - Physical Separation of Parties
Involved in Domestic Violence

b. In dual military cases, commanders will require that the Soldier-victim remain in the couple's residence and that the Soldier-offender be placed in the barracks or with a command-assigned individual. The provisions set forth in paragraph 4(a) above shall apply.

c. In dual military cases involving mutual affrays, commanders will make the determination as to which party to place in the barracks, based on who is identified by the military police (MP) or an SWS case manager as the primary aggressor. In accordance with Army Regulation 608-18, the primary aggressor is defined as the person who maintains the power and control in an abusive incident regardless of who initiates the domestic dispute, continued the dispute, or provoked the incident. In deciding which party to order into the barracks, commanders should always consider the interests and welfare of the party's minor children, if any, to include which parent provides the majority of the care.

d. Commanders will ensure that the unit representative responsible for picking up the soldier at the PMO is an officer or NCO at least two grades higher than the Soldier, and that they meet with the on-call victim advocate before leaving the MP station.

e. Commanders will ensure that offenders contact SWS for an initial assessment within 24 hours after an incident occurs or the next working day if the incident occurs on a weekend or a holiday.

f. Commanders will ensure Soldier-offenders understand that 72 hours is a minimum separation period contingent upon the completion of the initial SWS assessment and the recommendation of the SWS case manager. Based on all of the circumstances, particularly the assessment of the SWS case manager, commanders will not allow the parties to reunite if either party's safety is at stake.

g. In situations where a domestic dispute does not include a physical assault, commanders may still institute a 72-hour physical separation period based on the circumstances and the recommendations of the MPs, SWS case manager, and/or victim advocate.

h. When appropriate, commanders may revoke pass or leave privileges of Soldiers subject to the provisions of this policy.

5. In situations where a Soldier must retrieve basic necessities from his/her home, commanders will ensure the victim is notified prior to going to the home and that a unit escort is assigned to accompany the Soldier to the home. The unit escort will keep the Soldier-offender in line of site supervision during the visit.

AFZX-MWR-AC

SUBJECT: Command Policy Memorandum DMWR-02 - Physical Separation of Parties
Involved in Domestic Violence

a. The escort must be an officer or NCO no less than two grades higher than the offender with the authority to issue a verbal or written order of restraint where necessary.

b. The escort will be responsible for the Soldier's return to the barracks or home after he/she has gathered his/her basic necessities.

c. The commander will ensure the Soldier-offender understands that this is a one-time visit during the separation period, and that he/she is not to return to the quarters until the requirements outlined in paragraphs 4(e) and (f) of this policy memorandum are met.

d. Commanders will secure quarter's keys to ensure Soldier-offenders do not have access to the quarters during the separation period or during periods of restraint as per court issued orders of protection.

6. Protective Orders:

a. In cases where a civilian court has issued an order of protection (restraining order) against a Soldier-offender, commanders will counsel their Soldiers to abide by the restrictions set forth in said order and will issue a military protective order (MPO) delineating similar restrictions. Commanders may pursue Uniform Code of Military Justice (UCMJ) action against Soldier-offenders who violate MPOs.

b. In cases where a civilian court has issued an order of protection (restraining order) against a civilian-offender, commanders will request that a bar from the installation be instituted against the civilian-offender. Commanders should contact the office of the staff judge advocate or on-call judge advocate at 208-3247 to begin the process of instituting a bar from post.

c. When a civilian-offender violates a civilian order of protection, he or she will be escorted off post by the MPs and a bar action will be initiated through the office of the staff judge advocate. Civilians who violate a bar from the post are subject to prosecution in the United States Magistrate Court.

d. Upon securing quarter's keys, commanders will advise the directorate of public works (DPW) that an order of protection is in place against a Soldier within their command and that additional keys to government and government-leased quarters should not be issued to the Soldier-offender.

7. Civilian Offenders: Where the offender is the civilian spouse, commanders will keep the Soldier's safety as the highest priority. Commanders will use whatever safety measures they

AFZX-MWR-AC

SUBJECT: Command Policy Memorandum DMWR-02 - Physical Separation of Parties
Involved in Domestic Violence

deem appropriate, to include placing the Soldier-victim in the barracks or seeking a temporary bar from the installation for the offender-civilian spouse. Where temporary bars are indicated, commanders shall contact the office of the staff judge advocate (OSJA) trial attorney or on-call OSJA attorney to begin the process of instituting an emergency bar.

8. Off-Post Incidents: Local civilian law enforcement shall deal with incidents occurring off post. Pursuant to a memorandum of agreement (MOA), local law enforcement shall be responsible for notifying the provost marshal office (PMO) of an offender's release. The PMO will then be responsible for notifying the commander, who will assign a unit representative to pick up the Soldier and have him/her placed into the barracks or home of a command-assigned individual for a 72-hour minimum period of physical separation.

- a. Commanders will ensure they notify the Soldier-offender's spouse of his/her release.
- b. Commanders shall ensure Soldier-offenders contact SWS for an initial assessment.

9. Weapons: Upon notification by the MPs, commanders will remove weapons from the home of Soldiers involved in domestic disputes and secure them in the unit's arms room until such time as a SWS case worker assesses it is safe for weapons to be returned to the custody of the offender.

10. This policy will remain in effect until superceded or rescinded.



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Commanding

DISTRIBUTION:

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